

1           **SECTION 88.** 51.40 (2) (b) 2. d. of the statutes is renumbered 51.40 (2) (b) 2. fg.  
2           and amended to read:

3           51.40 (2) (b) 2. fg. ~~The~~ If the individual is incapable of indicating intent; the  
4           individual was living in another county outside of a nursing home or state facility on  
5           ~~December 1, 1982~~ the effective date of this subd. 2. fg. .... [revisor inserts date], or  
6           under circumstances ~~which~~ that established residence in that county after ~~December~~  
7           ~~1, 1982~~ the effective date of this subd. 2. fg. .... [revisor inserts date]; and that county  
8           was the last county in which the individual had residence while living outside of a  
9           nursing home or state facility, the individual is a resident of that county.

10          **SECTION 89.** 51.40 (2) (b) 2. g. of the statutes is created to read:

11          51.40 (2) (b) 2. g. If subd. 2. ag. to fg. does not apply, an individual who is  
12          incapable of indicating intent and is residing in a facility is a resident of the county  
13          in which the individual resided before admittance to the facility.

14          **SECTION 90.** 51.40 (2) (f) of the statutes is repealed and recreated to read:

15          51.40 (2) (f) *Guardian's authority to declare county of residence.* A guardian  
16          may declare any of the following, under any of the following conditions:

17               1. The ward is a resident of the guardian's county of residence, if pars. (a) and  
18               (b) do not apply, if the guardian's ward is in a facility and is incapable of indicating  
19               intent, and if the guardian is a resident of the county in which the facility is located  
20               or states in writing that the ward is expected to return to the guardian's county of  
21               residence when the purpose of entering the facility has been accomplished or when  
22               needed care and services can be obtained in the guardian's county of residence.

23               2. The ward is a resident of the county in which the ward is physically present,  
24               if pars. (a) and (b) do not apply and if all of the following apply:

25                     a. The ward's presence in the county is voluntary.

1           b. There is no current order under ch. 55 in effect with respect to the ward, and  
2           the ward is not under an involuntary commitment order to the department of  
3           corrections or to a county other than the county in which the ward is physically  
4           present.

5           c. The ward is living in a place of fixed habitation.

6           d. The guardian states in writing that it is the ward's intent to remain in the  
7           county for the foreseeable future.

8           3. The ward is a resident of the county specified by the guardian, regardless if  
9           a previous determination of county of residence has been made, notwithstanding  
10          pars. (a) and (b) for good cause shown, if, in the ward's best interest, the guardian files  
11          with the probate court having jurisdiction of the guardianship and protective  
12          placement a written statement declaring the ward's domiciliary intent, subject to  
13          court approval, and if notice and opportunity to be heard are provided to all affected  
14          counties and parties. Notice under this subdivision shall be sent to the corporation  
15          counsel of each affected county by certified mail.

16          **SECTION 91.** 51.40 (2) (g) 1. of the statutes is amended to read:

17          51.40 (2) (g) 1. An individual, an interested person on behalf of the individual,  
18          or any county may request that the department make a determination of the county  
19          of responsibility of the individual. Any motion for change of venue pending before  
20          the court of jurisdiction may be stayed until the determination under this paragraph  
21          is final. Within 10 days after receiving the request, the department shall provide  
22          written notice to the individual; to the individual's guardian, guardian ad litem, and  
23          counsel, if any; to the individual's immediate family, if they can be located; and to all  
24          potentially responsible counties that a determination of county of responsibility

1 shall be made and that written information and comments may be submitted within  
2 30 days after the date on which the notice is sent.

3 **SECTION 92.** 51.40 (2) (g) 6. of the statutes is created to read:

4 51.40 (2) (g) 6. The county that is determined to be the county of responsibility  
5 shall reimburse any other county for all care, treatment, and services provided by the  
6 other county to the individual under ch. 46, 51, or 55. Full reimbursement by the  
7 county that is determined to be the county of responsibility shall be made within 120  
8 days after the date of the department's determination of the county of responsibility  
9 or within 120 days after the date of the outcome of any appeal of the department's  
10 determination that is brought under ch. 227, or by a date or under a schedule of 2 or  
11 more payments that is agreed to by both counties.

12 **SECTION 93.** 51.45 (2) (e) of the statutes is amended to read:

13 51.45 (2) (e) "Incompetent person" means a person who has been adjudged  
14 incompetent by the circuit court, as defined in s. 54.01 (4).

15 **SECTION 94.** 51.45 (10) (a) of the statutes is amended to read:

16 51.45 (10) (a) An adult alcoholic may apply for voluntary treatment directly to  
17 an approved public treatment facility. If the proposed patient is an individual  
18 adjudicated incompetent person in this state who has not been deprived by a court  
19 of the right to contract under subch. I of ch. 880, the person individual or a legal his  
20 or her guardian or other legal representative may make the application. If the  
21 proposed patient is an individual adjudicated incompetent person in this state who  
22 has been deprived by a court of the right to contract under subch. I of ch. 880, a legal,  
23 the individual's guardian or other legal representative may make the application.

24 **SECTION 95.** 51.45 (10) (c) of the statutes is amended to read:

1           51.45 (10) (c) If a patient receiving inpatient care leaves an approved public  
2           treatment facility, the patient shall be encouraged to consent to appropriate  
3           outpatient or intermediate treatment. If it appears to the superintendent in charge  
4           of the treatment facility that the patient is an alcoholic or intoxicated person who  
5           requires help, the county department shall arrange for assistance in obtaining  
6           supportive services and residential facilities. If the patient is an individual who is  
7           adjudicated incompetent person, the request for discharge from an inpatient facility  
8           shall be made by a legal guardian or other legal representative or by the individual  
9           who is adjudicated incompetent if he or she was the original applicant.

10           **SECTION 96.** 51.45 (13) (c) of the statutes is amended to read:

11           51.45 (13) (c) Effective and timely notice of the preliminary hearing, together  
12           with a copy of the petition and supporting affidavits under par. (a), shall be given to  
13           the person unless he or she has been taken into custody under par. (b), the spouse  
14           or legal guardian if the person is adjudicated incompetent, the person's counsel, and  
15           the petitioner. The notice shall include a written statement of the person's right to  
16           an attorney, the right to trial by jury, the right to be examined by a physician, and  
17           the standard under which he or she may be committed under this section. If the  
18           person is taken into custody under par. (b), upon arrival at the approved public  
19           treatment facility, the person shall be advised both orally and in writing of the right  
20           to counsel, the right to consult with counsel before a request is made to undergo  
21           voluntary treatment under sub. (10), the right not to converse with examining  
22           physicians, psychologists or other personnel, the fact that anything said to  
23           examining physicians, psychologists or other personnel may be used as evidence  
24           against him or her at subsequent hearings under this section, the right to refuse  
25           medication under s. 51.61 (6), the exact time and place of the preliminary hearing

1 under par. (d), the right to trial by jury, the right to be examined by a physician and  
2 of the reasons for detention, and the standards under which he or she may be  
3 committed prior to all interviews with physicians, psychologists, or other personnel.  
4 Such notice of rights shall be provided to the person's immediate family if they can  
5 be located and may be deferred until the person's incapacitated condition, if any, has  
6 subsided to the point where the person is capable of understanding the notice. Under  
7 no circumstances may interviews with physicians, psychologists, or other personnel  
8 be conducted until such notice is given, except that the person may be questioned to  
9 determine immediate medical needs. The person may be detained at the facility to  
10 which he or she was admitted or, upon notice to the attorney and the court,  
11 transferred by the county department to another appropriate public or private  
12 treatment facility, until discharged under this subsection. A copy of the petition and  
13 all supporting affidavits shall be given to the person at the time notice of rights is  
14 given under this paragraph by the superintendent, who shall provide a reasonable  
15 opportunity for the patient to consult counsel.

16 **SECTION 97.** 51.45 (13) (e) of the statutes is amended to read:

17 51.45 (13) (e) Upon a finding of probable cause under par. (d), the court shall  
18 fix a date for a full hearing to be held within 14 days. An extension of not more than  
19 14 days may be granted upon motion of the person sought to be committed upon a  
20 showing of cause. Effective and timely notice of the full hearing, the right to counsel,  
21 the right to jury trial, and the standards under which the person may be committed  
22 shall be given to the person, the immediate family other than a petitioner under par.  
23 (a) or sub. (12) (b) if they can be located, the spouse or legal guardian if the person  
24 is adjudicated incompetent, the superintendent in charge of the appropriate  
25 approved public treatment facility if the person has been temporarily committed

1 under par. (b) or sub. (12), the person's counsel, unless waived, and to the petitioner  
2 under par. (a). Counsel, or the person if counsel is waived, shall have access to all  
3 reports and records, psychiatric and otherwise, which have been made prior to the  
4 full hearing on commitment, and shall be given the names of all persons who may  
5 testify in favor of commitment and a summary of their proposed testimony at least  
6 96 hours before the full hearing, exclusive of Saturdays, Sundays and legal holidays.

7 **SECTION 98.** 51.61 (1) (o) of the statutes is amended to read:

8 51.61 (1) (o) Except as otherwise provided, have a right not to be filmed or  
9 taped, unless the patient signs an informed and voluntary consent that specifically  
10 authorizes a named individual or group to film or tape the patient for a particular  
11 purpose or project during a specified time period. The patient may specify in ~~such~~  
12 the consent periods during which, or situations in which, the patient may not be  
13 filmed or taped. If a patient is legally adjudicated incompetent, ~~such~~ the consent  
14 shall be granted on behalf of the patient by the patient's guardian. A patient in  
15 Goodland Hall at the Mendota Mental Health Institute, or a patient detained or  
16 committed under ch. 980 and placed in a facility specified under s. 980.065, may be  
17 filmed or taped for security purposes without the patient's consent, except that such  
18 a patient may not be filmed in patient bedrooms or bathrooms for any purpose  
19 without the patient's consent.

20 **SECTION 99.** 51.61 (1) (w) 3. of the statutes is amended to read:

21 51.61 (1) (w) 3. A patient, a patient's relative who may be liable for the cost of  
22 the patient's care and treatment, or a patient's guardian may request information  
23 about charges for care and treatment services at the treatment facility or community  
24 mental health program. If a treatment facility or community mental health program  
25 receives such a request, the treatment facility or community mental health program

1 shall promptly provide to the individual making the request written information  
2 about the treatment facility's or community mental health program's charges for  
3 care and treatment services. Unless the request is made by the patient, the guardian  
4 of a patient ~~adjudged~~ adjudicated incompetent ~~under ch. 880 in this state~~, the parent  
5 or guardian of a minor who has access to the minor's treatment records under s. 51.30  
6 (5) (b) 1., or a person designated by the patient's informed written consent under s.  
7 51.30 (4) (a) as a person to whom information may be disclosed, information released  
8 under this subdivision is limited to general information about the treatment facility's  
9 or community mental health program's charges for care and treatment services and  
10 may not include information which may not be disclosed under s. 51.30.

11 **SECTION 100.** Chapter 54 of the statutes is created to read:

12 **CHAPTER 54**

13 **GUARDIANSHIPS AND CONSERVATORSHIPS**

14 **SUBCHAPTER I**

15 **DEFINITIONS**

16 **54.01 Definitions.** In subchs I to VI:

17 (1) "Activities of daily living" means activities relating to the performance of  
18 self care, work, and leisure activities, including dressing, eating, grooming, mobility,  
19 and object manipulation.

20 (3) "Conservator" means a person who is appointed by a court at an individual's  
21 request under s. 54.76 (2) to manage the estate of the individual.

22 (4) "Court" means the circuit court or judge assigned to exercise probate  
23 jurisdiction or the assignee of the judge under s. 757.68 (4m) or 851.73 (1) (g) who is  
24 assigned relevant authority.

1           **(5)** “Decedent” means the deceased individual whose estate is subject to  
2 administration.

3           **(6)** “Degenerative brain disorder” means the loss or dysfunction of an  
4 individual’s brain cells to the extent that he or she is substantially impaired in his  
5 or her ability to provide adequately for his or her own care or custody or to manage  
6 adequately his or her property or financial affairs.

7           **(7)** “Depository account” has the meaning given in s. 815.18 (2) (e).

8           **(9)** “Durable power of attorney” has the meaning given in s. 243.07 (1) (a).

9           **(9g)** “Foreign court” means a court of a foreign state having competent  
10 jurisdiction of a foreign ward.

11           **(9i)** “Foreign guardian” means a guardian appointed by a foreign court for a  
12 foreign ward.

13           **(9k)** “Foreign guardianship” means a guardianship issued by a foreign court.

14           **(9m)** “Foreign state” means a state other than this state.

15           **(9p)** “Foreign ward” means an individual who has been found by a foreign court  
16 to be incompetent or a spendthrift and who is subject to a guardianship order or  
17 related order in a foreign state.

18           **(11)** “Guardian of the estate” means a guardian appointed to comply with the  
19 duties specified in s. 54.19 and to exercise any of the powers specified in s. 54.20.

20           **(12)** “Guardian of the person” means a guardian appointed to comply with the  
21 duties specified in s. 54.25 (1) and to exercise any of the powers specified in s. 54.25  
22 (2).

23           **(13)** “Heir” means any person, including the surviving spouse, who is entitled  
24 under the statutes of intestate succession to an interest in property of a decedent.  
25 The state is an heir of the decedent and a person interested under s. 45.37 (10) and

1 (11) when the decedent was a member of the Wisconsin Veterans Home at King or  
2 at the facilities operated by the department of veterans affairs under s. 45.385 at the  
3 time of the decedent's death.

4 (14) "Impairment" means a developmental disability, serious and persistent  
5 mental illness, degenerative brain disorder, or other like incapacities.

6 (15) "Incapacity" means the inability of an individual effectively to receive and  
7 evaluate information or to make or communicate a decision with respect to the  
8 exercise of a right or power.

9 (16) "Individual found incompetent" means an individual who has been  
10 adjudicated by a court as meeting the requirements of s. 54.10 (3).

11 (17) "Interested person" means any of the following:

12 (a) For purposes of a petition for guardianship, any of the following:

13 1. The proposed ward, if he or she has attained 14 years of age.

14 2. The spouse or adult child of the proposed ward, or the parent of a proposed  
15 ward who is a minor.

16 3. For a proposed ward who has no spouse, child, or parent, an heir, as defined  
17 in s. 851.09, of the proposed ward that may be reasonably ascertained with due  
18 diligence.

19 4. Any individual who is nominated as guardian, any individual who is  
20 appointed to act as guardian or fiduciary for the proposed ward by a court of any  
21 state, any trustee for a trust established by or for the proposed ward, any person  
22 appointed as agent under a power of attorney for health care, as defined in s. 155.01  
23 (4), or any person appointed as agent under a durable power of attorney under ch.  
24 243.

1           5. If the proposed ward is a minor, the individual who has exercised principal  
2       responsibility for the care and custody of the proposed ward during the period of 60  
3       consecutive days immediately before the filing of the petition.

4           6. If the proposed ward is a minor and has no living parent, any individual  
5       nominated to act as fiduciary for the minor in a will or other written instrument that  
6       was executed by a parent of the minor.

7           7. If the proposed ward is receiving moneys paid, or if moneys are payable, by  
8       the federal department of veterans affairs, a representative of the federal  
9       department of veterans affairs, or, if the proposed ward is receiving moneys paid, or  
10      if moneys are payable, by the state department of veterans affairs, a representative  
11      of the state department of veterans affairs.

12          8. If the proposed ward is receiving long-term support services or similar public  
13      benefits, the county department of human services or social services that is providing  
14      the services or benefits.

15          9. The corporation counsel of the county in which the petition is filed and, if the  
16      petition is filed in a county other than the county of the proposed ward's residence,  
17      the corporation counsel of the county of the proposed ward's residence.

18          10. Any other person required by the court.

19          (b) For purposes of proceedings subsequent to an order for guardianship, any  
20      of the following:

21           1. The guardian.

22           2. The spouse or adult child of the ward or the parent of a minor ward.

23           3. The county of venue, through the county's corporation counsel, if the county  
24      has an interest.

1           4. Any person appointed as agent under a durable power of attorney under ch.  
2           243, unless the agency is revoked or terminated by a court.

3           5. Any other individual that the court may require, including any fiduciary that  
4           the court may designate.

5           **(18)** “Least restrictive” means that which places the least possible restriction  
6           on personal liberty and the exercise of rights and that promotes the greatest possible  
7           integration of an individual into his or her community that is consistent with  
8           meeting his or her essential requirements for health, safety, habilitation, treatment,  
9           and recovery and protecting him or her from abuse, exploitation, and neglect.

10          **(19)** “Meet the essential requirements for physical health or safety” means  
11          perform those actions necessary to provide the health care, food, shelter, clothes,  
12          personal hygiene, and other care without which serious physical injury or illness will  
13          likely occur.

14          **(21)** “Mortgage” means any agreement or arrangement in which property is  
15          used as security.

16          **(23)** “Personal representative” means any individual to whom letters to  
17          administer a decedent’s estate have been granted by the court or by the probate  
18          registrar under ch. 865, but does not include a special administrator.

19          **(24)** “Physician” has the meaning given in s. 448.01 (5).

20          **(25)** “Property” means any interest, legal or equitable, in real or personal  
21          property, without distinction as to kind, including money, rights of a beneficiary  
22          under a contractual arrangement, choses in action, and anything else that may be  
23          the subject of ownership.

24          **(26)** “Proposed ward” means a minor, an individual alleged to be incompetent,  
25          or an alleged spendthrift, for whom a petition for guardianship is filed.

1           **(27)** “Psychologist” means a licensed psychologist, as defined in s. 455.01 (4).

2           **(28)** “Psychotropic medication” means a prescription drug, as defined in s.  
3           450.01 (20), that is used to treat or manage a psychiatric symptom or challenging  
4           behavior.

5           **(29)** “Sale” includes an option or agreement to transfer whether the  
6           consideration is cash or credit. It includes exchange, partition, and settlement of title  
7           disputes. The intent of this subsection is to extend and not to limit the meaning of  
8           “sale.”

9           **(30)** “Serious and persistent mental illness” means a mental illness that is  
10          severe in degree and persistent in duration, that causes a substantially diminished  
11          level of functioning in the primary aspects of daily living and an inability to cope with  
12          the ordinary demands of life, that may lead to an inability to maintain stable  
13          adjustment and independent functioning without long-term treatment and support  
14          and that may be of lifelong duration. “Serious and persistent mental illness” includes  
15          schizophrenia as well as a wide spectrum of psychotic and other severely disabling  
16          psychiatric diagnostic categories, but does not include degenerative brain disorder  
17          or a primary diagnosis of a developmental disability or of alcohol or drug dependence.

18          **(32)** “Standby conservator” means an individual designated by the court under  
19          s. 54.76 (2) whose appointment as conservator becomes effective immediately upon  
20          the death, resignation, or court’s removal of the initially appointed conservator, or  
21          if the initially appointed conservator is temporarily or permanently unable,  
22          unavailable, or unwilling to fulfill his or her duties.

23          **(33)** “Standby guardian” means an individual designated by the court under  
24          s. 54.52 (2) whose appointment as guardian becomes effective immediately upon the  
25          death, resignation, or court’s removal of the initially appointed guardian, or if the

1 initially appointed guardian is temporarily or permanently unable, unavailable, or  
2 unwilling to fulfill his or her duties.

3 (34) “Successor conservator” means an individual appointed under s. 54.76 (9).

4 (35) “Successor guardian” means an individual appointed under s. 54.54.

5 (36) “Surviving spouse” means an individual who was married to the decedent  
6 at the time of the decedent’s death. “Surviving spouse” does not include any of the  
7 following:

8 (a) An individual who obtains or consents to a final decree or judgment of  
9 divorce from the decedent or an annulment of their marriage, if the decree or  
10 judgment is not recognized as valid in this state, unless the 2 subsequently  
11 participated in a marriage ceremony purporting to marry each other or they  
12 subsequently held themselves out as husband and wife.

13 (b) An individual who, following an invalid decree or judgment of divorce or  
14 annulment obtained by the decedent, participates in a marriage ceremony with a 3rd  
15 individual.

16 (c) An individual who was party to a valid proceeding concluded by an order  
17 purporting to terminate all property rights based on the marriage with the decedent.

18 (38) “Will” includes a codicil and any document incorporated by reference in a  
19 testamentary document under s. 853.32 (1) or (2). “Will” does not include a copy,  
20 unless the copy has been proven as a will under s. 856.17, but “will” does include a  
21 properly executed duplicate original.

## 22 SUBCHAPTER II

## 23 APPOINTMENT OF GUARDIAN

1           **54.10 Appointment of guardian.** (1) A court may appoint a guardian of the  
2 person or a guardian of the estate, or both, for an individual if the court determines  
3 that the individual is a minor.

4           (2) (a) A court may appoint a guardian of the estate for an individual if the court  
5 finds by clear and convincing evidence that the individual is aged at least 18 years  
6 and is a spendthrift.

7           (b) In appointing a guardian of the estate under this subsection or determining  
8 what powers are appropriate for the guardian of the estate to exercise under s. 54.18  
9 or 54.20, the court shall consider all of the following:

10           1. The report of the guardian ad litem, as required in s. 54.40 (4).

11           2. The medical or psychological report provided under s. 54.36 (1) and any  
12 additional medical, psychological, or other evaluation ordered by the court under s.  
13 54.40 (4) (e) or offered by a party and received by the court.

14           3. Whether other reliable resources are available to provide for the individual's  
15 personal needs or property management, and whether appointment of a guardian of  
16 the estate is the least restrictive means to provide for the individual's need for a  
17 substitute decision maker.

18           4. The preferences, desires, and values of the individual with regard to personal  
19 needs or property management.

20           5. The nature and extent of the individual's care and treatment needs and  
21 property and financial affairs.

22           6. Whether the individual's situation places him or her at risk of abuse,  
23 exploitation, neglect, or violation of rights.

24           7. The extent of the demands placed on the individual by his or her personal  
25 needs and by the nature and extent of his or her property and financial affairs.

1           8. Any mental disability, alcoholism, or other drug dependence of the individual  
2           and the prognosis of the mental disability, alcoholism, or other drug dependence.

3           9. Whether the effect on the individual's evaluative capacity is likely to be  
4           temporary or long term, and whether the effect may be ameliorated by appropriate  
5           treatment.

6           10. Other relevant evidence.

7           (c) Before appointing a guardian of the estate under this subsection or  
8           determining what powers are appropriate for the guardian of the estate to exercise  
9           under s. 54.18 or 54.20, the court shall determine if additional medical,  
10          psychological, social, vocational, or educational evaluation is necessary for the court  
11          to make an informed decision respecting the individual.

12          (d) In appointing a guardian of the estate under this subsection, the court shall  
13          authorize the guardian of the estate to exercise only those powers under ss. 54.18 and  
14          54.20 that are necessary to provide for the individual's personal needs and property  
15          management and to exercise the powers in a manner that is appropriate to the  
16          individual and that constitutes the least restrictive form of intervention.

17          **(3)** (a) A court may appoint a guardian of the person or a guardian of the estate,  
18          or both, for an individual based on a finding that the individual is incompetent only  
19          if the court finds by clear and convincing evidence that all of the following are true:

20               1. The individual is aged at least 17 years and 9 months.

21               2. For purposes of appointment of a guardian of the person, because of an  
22          impairment, the individual is unable effectively to receive and evaluate information  
23          or to make or communicate decisions to such an extent that the individual is unable  
24          to meet the essential requirements for his or her physical health and safety.

1           3. For purposes of appointment of a guardian of the estate, because of an  
2           impairment, the individual is unable effectively to receive and evaluate information  
3           or to make or communicate decisions related to management of his or her property  
4           or financial affairs, to the extent that any of the following applies:

5           a. The individual has property that will be dissipated in whole or in part.

6           b. The individual is unable to provide for his or her support.

7           c. The individual is unable to prevent financial exploitation.

8           4. The individual's need for assistance in decision making or communication  
9           is unable to be met effectively and less restrictively through appropriate and  
10          reasonably available training, education, support services, health care, assistive  
11          devices, or other means that the individual will accept.

12          (b) Unless the proposed ward is unable to communicate decisions effectively in  
13          any way, the determination under par. (a) may not be based on mere old age,  
14          eccentricity, poor judgment, or physical disability.

15          (c) In appointing a guardian under this subsection, declaring incompetence to  
16          exercise a right under s. 54.25 (2) (c), or determining what powers are appropriate  
17          for the guardian to exercise under s. 54.18, 54.20, or 54.25 (2) (d), the court shall  
18          consider all of the following:

19           1. The report of the guardian ad litem, as required in s. 54.40 (4).

20           2. The medical or psychological report provided under s. 54.36 (1) and any  
21          additional medical, psychological, or other evaluation ordered by the court under s.  
22          54.40 (4) (e) or offered by a party and received by the court.

23           3. Whether the proposed ward has engaged in any advance planning for  
24          financial and health care decision making that would avoid guardianship, including

1 by executing a durable power of attorney under ch. 243, a power of attorney for health  
2 care, as defined in s. 155.01 (10), a trust, or a jointly held account.

3 4. Whether other reliable resources are available to provide for the individual's  
4 personal needs or property management, and whether appointment of a guardian is  
5 the least restrictive means to provide for the individual's need for a substitute  
6 decision maker.

7 5. The preferences, desires, and values of the individual with regard to personal  
8 needs or property management.

9 6. The nature and extent of the individual's care and treatment needs and  
10 property and financial affairs.

11 7. Whether the individual's situation places him or her at risk of abuse,  
12 exploitation, neglect, or violation of rights.

13 8. Whether the individual can adequately understand and appreciate the  
14 nature and consequences of his or her impairment.

15 9. The individual's management of the activities of daily living.

16 10. The individual's understanding and appreciation of the nature and  
17 consequences of any inability he or she may have with regard to personal needs or  
18 property management.

19 11. The extent of the demands placed on the individual by his or her personal  
20 needs and by the nature and extent of his or her property and financial affairs.

21 12. Any physical illness of the individual and the prognosis of the individual.

22 13. Any mental disability, alcoholism, or other drug dependence of the  
23 individual and the prognosis of the mental disability, alcoholism, or other drug  
24 dependence.

1           14. Any medication with which the individual is being treated and the  
2 medication's effect on the individual's behavior, cognition, and judgment.

3           15. Whether the effect on the individual's evaluative capacity is likely to be  
4 temporary or long term, and whether the effect may be ameliorated by appropriate  
5 treatment.

6           16. Other relevant evidence.

7           (d) Before appointing a guardian under this subsection, declaring  
8 incompetence to exercise a right under s. 54.25 (2) (c), or determining what powers  
9 are appropriate for the guardian to exercise under s. 54.18, 54.20, or 54.25 (2) (d), the  
10 court shall determine if additional medical, psychological, social, vocational, or  
11 educational evaluation is necessary for the court to make an informed decision  
12 respecting the individual's competency to exercise legal rights and may obtain  
13 assistance in the manner provided in s. 55.06 (8) whether or not protective placement  
14 is made.

15           (e) In appointing a guardian under this subsection, the court shall authorize  
16 the guardian to exercise only those powers under ss. 54.18, 54.20, and 54.25 (2) (d)  
17 that are necessary to provide for the individual's personal needs and property  
18 management and to exercise the powers in a manner that is appropriate to the  
19 individual and that constitutes the least restrictive form of intervention.

20           (4) If the court appoints both a guardian of the person and a guardian of the  
21 estate for an individual other than an individual found to be a spendthrift, the court  
22 may appoint separate persons to be guardian of the person and of the estate, or may  
23 appoint one person to act as both.

24           (5) The court may appoint coguardians of the person or coguardians of the  
25 estate, subject to any conditions that the court imposes.

54.12 (1) (e) Make payment to the agent under a durable power of attorney of the ward.

(f) Make payment to the trustee of any trust created for the benefit of the ward.

### SUBCHAPTER III

## NOMINATION OF GUARDIAN;

## POWERS AND DUTIES; LIMITATIONS

**54.15 (1m) POTENTIAL CONFLICTS OF INTEREST.**

(2) AGENT UNDER DURABLE POWER OF ATTORNEY. The court shall appoint as guardian of the estate an agent under a proposed ward's durable power of attorney, unless the court finds that the appointment of an agent is not in the best interests of the proposed ward.

**(3) AGENT UNDER A POWER OF ATTORNEY FOR HEALTH CARE.** The court shall appoint as guardian of the person the agent under a proposed ward's power of attorney for health care, unless the court finds that the appointment of the agent is not in the best interests of the proposed ward.

**(4) PERSON NOMINATED BY PROPOSED WARD.**

**(8) STATEMENT OF ACTS BY PROPOSED GUARDIAN.** (a) At least 96 hours before the hearing under s. 54.44, the proposed guardian shall submit to the court a sworn and notarized statement as to whether any of the following is true:

1. The proposed guardian is currently charged with or has been convicted of a crime, as defined in s. 939.12.

2. The proposed guardian has filed for or received protection under the federal bankruptcy laws.

1           3. Any license, certificate, permit, or registration of the proposed guardian that  
2           is required under chs. 440 to 480 or by the laws of another state for the practice of  
3           a profession or occupation has been suspended or revoked.

4           4. The proposed guardian is listed under s. 146.40 (4g) (a) 2.

5           (b) If par. (a) 1., 2., 3., or 4. applies to the proposed guardian, he or she shall  
6           include in the sworn and notarized statement a description of the circumstances  
7           surrounding the applicable event under par. (a) 1., 2., 3., or 4.

8           **54.18 General duties and powers of guardian; limitations; immunity.**

9           (1) A ward retains all his or her rights that are not assigned to the guardian or  
10          otherwise limited by statute. A guardian acting on behalf of a ward may exercise only  
11          those powers that the guardian is authorized to exercise by statute or court order.  
12          A guardian may be granted only those powers necessary to provide for the personal  
13          needs or property management of the ward in a manner that is appropriate to the  
14          ward and that constitutes the least restrictive form of intervention.

15          (2) A guardian shall do all of the following:

16          (a) Exercise the degree of care, diligence, and good faith when acting on behalf  
17          of a ward that an ordinarily prudent person exercises in his or her own affairs.

18          (b) Advocate for the ward's best interests, including, if the ward is protectively  
19          placed under ch. 55 and if applicable, advocating for the ward's applicable rights  
20          under ss. 50.09 and 51.61.

21          (c) Exhibit the utmost degree of trustworthiness, loyalty, and fidelity in relation  
22          to the ward.

23          (d) Notify the court of any change of address of the guardian or ward.

24          (3) No guardian may do any of the following:

1 (b) Lend funds of the ward to another individual or to an entity, unless the court  
2 first approves the terms, rate of interest, and any requirement for security.

3 **54.19 Duties of guardian of the estate.** Subject to s. 54.18 (1) and except  
4 as specifically limited in the order of appointment, the guardian of the estate shall,  
5 following any applicable procedures of s. 54.22, do all of the following in order to  
6 provide a ward with the greatest amount of independence and self-determination  
7 with respect to property management in light of the ward's functional level,  
8 understanding, and appreciation of his or her functional limitations and the ward's  
9 personal wishes and preferences with regard to managing the activities of daily  
10 living:

11 (2) Retain, expend, distribute, sell, or invest the ward's property, rents, income,  
12 benefits, and proceeds and account for all of them, subject to chs. 786 and 881.

13 (3) Determine, if the ward has executed a will, the will's location, determine  
14 the appropriate persons to be notified in the event of the ward's death, and, if the  
15 death occurs, notify those persons.

16 (4) Use the ward's income and property to maintain and support the ward and  
17 any dependents of the ward.

18 (5) Prepare and file an annual account as specified in s. 54.62.

19 (6) At the termination of the guardianship, deliver the ward's assets to the  
20 persons entitled to them.

21 (8) File, with the register of deeds of any county in which the ward possesses  
22 real property of which the guardian has actual knowledge, a sworn and notarized  
23 statement that specifies the legal description of the property, the date that the ward  
24 is determined to be an incompetent, and the name, address, and telephone number  
25 of the ward's guardian and any surety on the guardian's bond.

1           **(9)** For a ward who receives governmental benefits for which a representative  
2       payee is appropriate, if no representative payee is appointed, apply to be appointed  
3       the ward's representative payee, or ensure that a representative payee is appointed.

4           **(10)** Perform any other duty required by the court order.

5           **54.20 Powers of guardian of the estate. (1)** (a) The ward's understanding  
6       of the harm that he or she is likely to suffer as the result of his or her inability to  
7       manage property and financial affairs.

8           (b) The ward's personal preferences and desires with regard to managing his  
9       or her activities of daily living.

10          (c) The least restrictive form of intervention for the ward.

11          **(2) POWERS REQUIRING COURT APPROVAL.** The guardian of the estate may do any  
12       of the following with respect to the ward's income and assets only with the court's  
13       prior written approval following any petition and upon any notice and hearing that  
14       the court requires:

15           (a) Make gifts, under the terms, including the frequency, amount, and donees  
16       specified by the court in approval of a petition under s. 54.21.

17           (c) Establish a trust as specified under 42 USC 1396p (d) (4) and transfer assets  
18       into the trust.

19           (d) Purchase an annuity or insurance contract and exercise rights to elect  
20       options or change beneficiaries under insurance and annuity policies and to  
21       surrender the policies for their cash value.

22           (e) Ascertain, establish, and exercise any rights available to the ward under a  
23       retirement plan or account.

24           (f) Exercise any elective rights that accrue to the ward as the result of the death  
25       of the ward's spouse or parent.

1 (g) Release or disclaim, under s. 854.13, any interest of the ward that is received  
2 by will, intestate succession, nontestamentary transfer at death, or other transfer.

3 (i) Provide support for an individual whom the ward is not legally obligated to  
4 support.

5 (j) Convey or release a contingent or expectation interest in property, including  
6 a marital property right and any right of survivorship that is incidental to a joint  
7 tenancy or survivorship marital property.

8 **(3) POWERS THAT DO NOT REQUIRE COURT APPROVAL.** The guardian of the estate  
9 may do any of the following on behalf of the ward without first receiving the court's  
10 approval:

11 (a) Provide support from the ward's income and assets for an individual whom  
12 the ward is legally obligated to support.

13 (b) Enter into a contract, other than a contract under sub. (2) or that is  
14 otherwise prohibited under this chapter.

15 (c) Exercise options of the ward to purchase securities or other property.

16 (d) Authorize access to or release of the ward's confidential financial records.

17 (e) Apply for public and private benefits.

18 (k) Take any other action, except an action specified under sub. (2), that is  
19 reasonable or appropriate to the duties of the guardian of the estate.

20 **54.21 Petition to transfer ward's assets to another. (1)** In this section:

21 (a) "Disabled" has the meaning given in s. 49.468 (1) (a) 1.

22 (b) "Other individual" means any of the following:

23 1. The ward's spouse, if any.

24 2. The ward's close friend, if any, and if the close friend meets the requirements  
25 of s. 50.94 (3) (e) 1. and 2.

1           3. The guardian ad litem of the ward's minor child, if any.

2           4. The ward's disabled child, if any.

3           5. Any of the ward's siblings who has an ownership interest in property that  
4 is co-owned with the ward.

5           6. Any of the ward's children who provides care for the ward as specified in 42  
6 USC 1396p (c) (2) (A) iv.

7           (c) "Will, trust, or other instrument" includes a revocable or irrevocable trust,  
8 a durable power of attorney, or a marital property agreement.

9           (2) A guardian or other individual who seeks an order authorizing and  
10 directing the guardian of the estate to transfer any of a ward's income or assets to  
11 or for the benefit of any person shall submit to the court a petition that specifies all  
12 of the following:

13           (a) Whether a proceeding by anyone seeking this authority with respect to the  
14 ward's income and assets was previously commenced and, if so, a description of the  
15 nature of the proceeding and the disposition made of it.

16           (b) The amount and nature of the ward's financial obligations, including  
17 moneys currently and prospectively required to provide for the ward's maintenance,  
18 support, and well-being and to provide for others dependent upon the ward for  
19 support, regardless of whether the ward is legally obligated to provide the support.  
20 If the petitioner has access to a copy of a court order or written agreement that  
21 specifies support obligations of the ward, the petitioner shall attach the copy to the  
22 petition.

23           (c) The income and assets of the ward that is the subject of the petition, the  
24 proposed disposition of the property, and the reasons for the disposition.

25           (d) The wishes, if ascertainable, of the ward.

1 (e) As specified in sub. (3), whether the ward has previously executed a will or  
2 similar instrument.

3 (f) A description of any significant gifts or patterns of gifts that the ward has  
4 made.

5 (g) The current and likely future effect of the proposed transfer of assets on the  
6 ward's eligibility for public benefits, including medical assistance or a benefit under  
7 s. 46.27.

8 (h) Whether the guardian of the person and the guardian of the estate, if not  
9 the petitioner, agree with or object to the transfer.

10 (i) The names, post-office addresses, and relationships to the ward of all of the  
11 following:

12 1. Any presumptive adult heirs of the ward who can be ascertained with  
13 reasonable diligence.

14 2. If the ward has previously executed a will, trust, or other instrument, the  
15 named or described beneficiaries, if known, under the most recent will, trust, or other  
16 instrument executed by the ward.

17 **(3)** (a) If a ward has previously executed a will, trust, or other instrument for  
18 nontestamentary transfer and the petitioner is able, with reasonable diligence, to  
19 obtain a copy, the petitioner shall provide the copy to the court, together with a  
20 statement that specifies all of the following:

21 1. The manner in which the copy was secured.

22 2. The manner in which the terms of the will, trust, or other instrument for  
23 nontestamentary transfer became known to the petitioner for nontestamentary  
24 transfer.

1           3. The basis for the petitioner’s belief that the copy is of the ward’s most recently  
2       executed will, trust, or other instrument.

3           (b) If the petitioner is unable to obtain a copy of the most recently executed will  
4       or other dispositive estate planning document or is unable to determine if the ward  
5       has previously executed a will or other dispositive estate planning document, the  
6       petitioner shall provide a statement to the court that specifies the efforts that were  
7       made by the petitioner to obtain a copy or ascertain the information.

8           (c) If a copy of the most recently executed will or other dispositive estate  
9       planning document is not otherwise available, the court may order the person who  
10      has the original will or other dispositive estate planning document to provide a  
11      photocopy to the court for in camera examination. The court may provide the  
12      photocopy to the parties to the proceeding unless the court finds that doing so is  
13      contrary to the ward’s best interests.

14          (d) The petitioner and the court shall keep confidential the information in a will  
15      or other dispositive estate planning document, or a copy of the will or other  
16      dispositive estate planning document, under this subsection, and may not, unless  
17      otherwise authorized, disclose that information.

18          (4) The petitioner shall serve notice upon all of the following, together with a  
19      copy of the petition, stating that the petitioner will move the court, at a time and  
20      place named in the notice, for the order described in the petition:

21          (a) If not the same as the petitioner, the guardian of the person and the  
22      guardian of the estate.

23          (b) Unless the court dispenses with notice under this subsection, the persons  
24      specified in sub. (2) (i), if known to the petitioner.

25          (c) The county corporation counsel, if the county has an interest in the matter.

1           **(5)** The court shall consider all of the following in reviewing the petition:

2           (a) The wishes of the ward, if known.

3           (b) Whether the duration of the ward's impairment is likely to be sufficiently  
4 brief so as to justify dismissal of the proceedings in anticipation of the ward's  
5 recovered ability to decide whether, and to whom, to transfer his or her assets.

6           (c) Whether the proposed transfer will benefit the ward, the ward's income and  
7 assets, or members of the ward's immediate family.

8           (d) Whether the donees or beneficiaries under the proposed disposition are  
9 reasonably expected objects of the ward's generosity and whether the proposed  
10 disposition is consistent with any ascertained wishes of the ward or known estate  
11 plan or pattern of lifetime gifts that he or she has made.

12           (e) Whether the proposed disposition will produce tax savings that will  
13 significantly benefit the ward, his or her dependents, or other persons for whom the  
14 ward would be concerned.

15           (f) The factors specified in sub. (2) (a) to (i) and any statements or other evidence  
16 under sub. (3).

17           (g) Any other factors that the court determines are relevant.

18           **(6)** The court may grant the petition under sub. (2) and enter an order  
19 authorizing and directing the guardian of the estate to take action requested in the  
20 petition, if the court finds and records all of the following:

21           (a) That the ward has incapacity to perform the act for which approval is sought  
22 and the incapacity is not likely to change positively within a reasonable period of  
23 time.

24           (b) That a competent individual in the position of the ward would likely perform  
25 the act under the same circumstances.

1 (c) That, before the ward had incapacity to perform the act for which approval  
2 is sought, he or she did not manifest intent that is inconsistent with the act.

3 (7) Nothing in this section requires a guardian to file a petition under this  
4 section and a guardian is not liable or accountable to any person for having failed to  
5 file a petition under this section.

6 54.25 (1) DUTIES. A guardian of the person shall do all of the following:

7 (b) 1. Regular inspection, in person, of the ward's condition, surroundings, and  
8 treatment.

9 2. Examination of the ward's patient health care records and treatment records  
10 and authorization for redisclosure as appropriate.

11 3. Attendance and participation in staff meetings of any facility in which the  
12 ward resides or is a patient, if the meeting includes a discussion of the ward's  
13 treatment and care.

14 4. Inquiry into the risks and benefits of, and alternatives to, treatment for the  
15 ward, particularly if drastic or restrictive treatment is proposed.

16 5. Specific consultation with providers of health care and social services in  
17 making all necessary treatment decisions.

18 (2) POWERS. (a) *Rights and powers of a guardian of the person.* A guardian of  
19 the person has only those rights and powers that the guardian is specifically  
20 authorized to exercise by statute, rule, or court order. Any other right or power is  
21 retained by the ward, unless the ward has been declared incompetent to exercise the  
22 right under par. (c) or the power has been transferred to the guardian under par. (d).

23 (b) *Rights retained by individuals determined incompetent.* An individual  
24 determined incompetent retains the power to exercise all of the following rights,  
25 without consent of the guardian:

1           1. To have access to and communicate privately with the court and with  
2 governmental representatives, including the right to have input into plans for  
3 support services, the right to initiate grievances, including under state and federal  
4 law regarding resident or patient rights, and the right to participate in  
5 administrative hearings and court proceedings.

6           2. To have access to, communicate privately with, and retain legal counsel with  
7 fees paid from the income and assets of the ward, subject to court approval.

8           3. To have access to and communicate privately with representatives of the  
9 protection and advocacy agency under s. 51.62 and the board on aging and long-term  
10 care.

11           4. To protest a residential placement made under s. 55.05 (5), and to be  
12 discharged from a residential placement unless the individual is protectively placed  
13 under s. 55.06 or the elements of s. 55.06 (11) are present.

14           5. To petition for court review of guardianship, protective services, protective  
15 placement, or commitment orders.

16           6. To give or withhold a consent reserved to the individual under ch. 51.

17           7. To exercise any other rights specifically reserved to the individual by statute  
18 or the constitutions of the state or the United States, including the rights to free  
19 speech, freedom of association, and the free exercise of religious expression.

20           (c) *Declaration of incompetence to exercise certain rights.* 1. The court may, as  
21 part of a proceeding under s. 54.44 in which an individual is found incompetent and  
22 a guardian is appointed, declare that the individual has incapacity to exercise one  
23 or more of the following rights:

24           a. The right to consent to marriage.

25           b. The right to execute a will.

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1           c. The right to serve on a jury.

2           d. The right to apply for an operator's license, a license issued under ch. 29, or  
3 a credential, as defined in s. 440.01 (2) (a), if the court finds that the individual is  
4 incapable of understanding the nature and risks of the licensed or credentialed  
5 activity, to the extent that engaging in the activity would pose a substantial risk of  
6 physical harm to the individual or others. A failure to find that an individual is  
7 incapable of applying for a license or credential is not a finding that the individual  
8 qualifies for the license or credential under applicable laws and rules.

9           e. The right to consent to sterilization, if the court finds that the individual is  
10 incapable of understanding the nature, risk, and benefits of sterilization, after the  
11 nature, risk, and benefits have been presented in a form that the individual is most  
12 likely to understand.

13           f. The right to consent to organ, tissue, or bone marrow donation.

14           2. Any finding under subd. 1. that an individual lacks evaluative capacity to  
15 exercise a right must be based on clear and convincing evidence. In the absence of  
16 such a finding, the right is retained by the individual.

17           3. If an individual is declared not competent to exercise a right under subd. 1.  
18 or 4., a guardian may not exercise the right or provide consent for exercise of the right  
19 on behalf of the individual. If the court finds with respect to a right listed under subd.  
20 1. a., d., e., or f. that the individual is competent to exercise the right under some but  
21 not all circumstances, the court may order that the individual retains the right to  
22 exercise the right only with consent of the guardian of the person.

23           4. Regardless of whether a guardian is appointed, a court may declare that an  
24 individual is not competent to exercise the right to register to vote or to vote in an  
25 election if it finds by clear and convincing evidence that the individual is incapable

1 of understanding the objective of the elective process. If the petition for a declaration  
2 of incompetence to vote is not part of a petition for guardianship, the same  
3 procedures shall apply as would apply for a petition for guardianship.

4 The determination of the court shall be communicated in writing by the clerk  
5 of court to the election official or agency charged under s. 6.48, 6.92, 6.925, or 6.93  
6 with the responsibility for determining challenges to registration and voting that  
7 may be directed against that elector. The determination may be reviewed as  
8 provided in s. 54.64 (2) (a) and (c) and any subsequent determination of the court  
9 shall be likewise communicated by the clerk of court.

10 (d) *Guardian authority to exercise certain powers.* 1. A court may authorize a  
11 guardian of the person to exercise all or part of any of the powers specified in subd.  
12 2. only if it finds, by clear and convincing evidence, that the individual lacks  
13 evaluative capacity to exercise the power. The court shall authorize the guardian of  
14 the person to exercise only those powers that are necessary to provide for the  
15 individual's personal needs, safety, and rights and to exercise the powers in a manner  
16 that is appropriate to the individual and that constitutes the least restrictive form  
17 of intervention. The court may limit the authority of the guardian of the person with  
18 respect to any power to allow the individual to retain power to make decisions about  
19 which the individual is able effectively to receive and evaluate information and  
20 communicate decisions. When a court appoints a guardian for a minor, the guardian  
21 shall be granted care, custody, and control of the person of the minor.

22 2. All of the following are powers subject to subd. 1.:

23 a. Except as provided under subd. 2. b., c., and d., and except for consent to  
24 psychiatric treatment and medication under ch. 51, and subject to any limitation  
25 under s. 54.46 (3) (b), the power to give informed consent, if in the ward's best

1 interests, to voluntary or involuntary medical examination and treatment and to the  
2 voluntary receipt by the ward of medication, including any appropriate psychotropic  
3 medication that is in the ward's best interest, if the guardian has first made a  
4 good-faith attempt to discuss with the ward the ward's voluntary receipt of the  
5 psychotropic medication and the ward does not protest. For purposes of this subd.  
6 2. a., "protest" means make more than one discernible negative response, other than  
7 mere silence, to the offer of, recommendation for, or other proffering of voluntary  
8 receipt of psychotropic medication. "Protest" does not mean a discernible negative  
9 response to a proposed method of administration of the psychotropic medication. A  
10 guardian may consent to the involuntary administration of psychotropic medication  
11 only under a court order under s. 55.14. In determining whether medication or  
12 medical treatment, other than psychotropic medication, is in the ward's best interest,  
13 the guardian shall consider the invasiveness of the medication or treatment and the  
14 likely benefits and side effects of the medication or treatment.

15 b. Unless it can be shown by clear and convincing evidence that the ward would  
16 never have consented to research participation, the power to authorize the ward's  
17 participation in an accredited or certified research project if the research might help  
18 the ward; or if the research might not help the ward but might help others, and the  
19 research involves no more than minimal risk of harm to the ward.

20 c. The power to authorize the ward's participation in research that might not  
21 help the ward but might help others even if the research involves greater than  
22 minimal risk of harm to the ward if the guardian can establish by clear and  
23 convincing evidence that the ward would have elected to participate in such  
24 research; and the proposed research was reviewed and approved by the research and  
25 human rights committee of the institution conducting the research. The committee

1 shall have determined that the research complies with the principles of the  
2 statement on the use of human subjects for research adopted by the American  
3 Association on Mental Deficiency, and with the federal regulations for research  
4 involving human subjects for federally supported projects.

5 d. Unless it can be shown by clear and convincing evidence that the ward would  
6 never have consented to any experimental treatment, the power to consent to  
7 experimental treatment if the court finds that the ward's mental or physical status  
8 presents a life-threatening condition; the proposed experimental treatment may be  
9 a life saving remedy; all other reasonable traditional alternatives have been  
10 exhausted; 2 examining physicians have recommended the treatment; and, in the  
11 court's judgment, the proposed experimental treatment is in the ward's best  
12 interests.

13 e. The power to give informed consent to receipt by the ward of social and  
14 supported living services.

15 f. The power to give informed consent to release of confidential records other  
16 than court, treatment, and patient health care records and to redisclosure as  
17 appropriate.

18 g. The power to make decisions related to mobility and travel.

19 i. The power to choose providers of medical, social, and supported living  
20 services.

21 j. The power to make decisions regarding educational and vocational placement  
22 and support services or employment.

23 k. The power to make decisions regarding initiating a petition for the  
24 termination of marriage.

25 L. The power to receive all notices on behalf of the ward.

1           m. The power to act in all proceedings as an advocate of the ward, except the  
2           power to enter into a contract that binds the ward or the ward's property or to  
3           represent the ward in any legal proceedings pertaining to the property, unless the  
4           guardian of the person is also the guardian of the estate.

5           n. The power to apply for protective placement under s. 55.06 or for  
6           commitment under s. 51.20 or 51.45 (13) for the ward.

7           o. The power to have custody of the ward, if an adult, and the power to have  
8           care, custody, and control of the ward, if a minor.

9           p. Any other power the court may specifically identify.

10          3. In exercising powers and duties delegated to the guardian of the person  
11          under this paragraph, the guardian of the person shall, consistent with meeting the  
12          individual's essential requirements for health and safety and protecting the  
13          individual from abuse, exploitation, and neglect, do all of the following:

14           a. Place the least possible restriction on the individual's personal liberty and  
15           exercise of constitutional and statutory rights, and promote the greatest possible  
16           integration of the individual into his or her community.

17           b. Make diligent efforts to identify and honor the individual's preferences with  
18           respect to choice of place of living, personal liberty and mobility, choice of associates,  
19           communication with others, personal privacy, and choices related to sexual  
20           expression and procreation. In making a decision to act contrary to the individual's  
21           expressed wishes, the guardian shall take into account the individual's  
22           understanding of the nature and consequences of the decision, the level of risk  
23           involved, the value of the opportunity for the individual to develop decision-making  
24           skills, and the need of the individual for wider experience.

c. Consider whether the ward's estate is sufficient to pay for the needed services.

## SUBCHAPTER IV

## PROCEDURES

### 54.30 Jurisdiction and venue.

**(3) (b) 1.** An interested person shall file a petition for change of venue in the county in which venue for the guardianship currently lies.

2. The person filing the petition under subd. 1. shall give notice to the corporation counsel of the county in which venue for the guardianship currently lies and to the register in probate and corporation counsel for the county to which change of venue is sought.

3. If no objection to the change of venue is made within 15 days after the date on which notice is given under subd. 2., the circuit court of the county in which venue for the guardianship currently lies may enter an order changing venue. If objection to the change of venue is made within 15 days after the date on which notice is given under subd. 2., the circuit court of the county in which venue for the guardianship currently lies shall set a date for a hearing within 7 days after the objection is made and shall give notice of the hearing to the corporation counsel of that county and to the corporation counsel and register in probate of the county to which change of venue is sought.

54.34 (1) (k) Whether the proposed ward is a recipient of a public benefit, including medical assistance or a benefit under s. 46.27.

(L) The agent under any current, valid power of attorney for health care or durable power of attorney that the proposed ward has executed.

1 (m) Whether the petitioner is requesting a full or limited guardianship and, if  
2 limited, the specific authority sought by the petitioner for the guardian or the specific  
3 rights of the individual that the petitioner seeks to have removed or transferred.

4 (n) Whether the proposed ward, if married, has children who are not children  
5 of the current marriage.

6 (p) Whether the petitioner is aware of any guardianship or conservatorship or  
7 related pending or ordered proceeding involving the proposed ward in another state  
8 or county and, if so, the details of the guardianship, conservatorship, or related  
9 processings.

10 (3) A petition for the receipt and acceptance by this state of a foreign  
11 guardianship of a foreign ward who resides in or intends to move to this state may  
12 include other petitions related to the foreign guardianship, such as a petition to  
13 modify the terms of the foreign guardianship, and shall include all of the following:

14 (a) A certified copy of the foreign guardianship order that includes all of the  
15 following:

16 1. All attachments that describe the duties and powers of the foreign guardian.  
17 2. All amendments or modifications to the foreign guardianship order that were  
18 entered after issuance of the original foreign guardianship order, including any order  
19 to transfer the foreign guardianship.

20 (b) The address of the foreign court that issued the foreign guardianship order.

21 (c) A listing of any other guardianship petitions for the foreign ward that are  
22 pending or that have been filed in any jurisdiction at any time within 24 months  
23 before the filing of the petition under this subsection and the names and addresses  
24 of the courts in which the petitions have been filed.

1 (d) The petitioner's name, residence, current address, and any relationship of  
2 the petitioner to the foreign ward other than as foreign guardian.

3 (e) The name, age, principal residence, and current address of the foreign ward.

4 (f) The name and address of any spouse of the foreign ward and any adult  
5 children, parents, or adult siblings of the foreign ward. If the foreign ward has no  
6 spouse, adult child, parent, or adult sibling, the name and address of at least one  
7 adult who is next closest in degree of kinship, as specified in s. 990.001 (16), to the  
8 ward, if available.

9 (g) The name and address of any person other than the foreign guardian who  
10 is responsible for the care or custody of the foreign ward.

11 (h) The name and address of any legal counsel of the foreign ward, including  
12 any guardian ad litem appointed by the foreign court.

13 (i) The reason for the transfer of the foreign guardianship.

14 (j) A general statement of the foreign ward's property, its location, its estimated  
15 value, and the source and amount of any other anticipated income or receipts.

16 **54.36 (2)** A petitioner or guardian ad litem may petition the court for an order  
17 requiring the proposed ward to submit to an examination by a licensed physician or  
18 psychologist pursuant to s. 804.10 (1).

19 **(3)** A physician or psychologist who examines a proposed ward under a court  
20 order requiring the examination may, without the informed consent of the proposed  
21 ward, obtain access to the patient health care records and treatment records of the  
22 proposed ward.

23 **54.38 Notice. (1)** FORM AND DELIVERY OF NOTICE. A notice shall be in writing.  
24 A copy of the petition, motion, or other required document shall be attached to the  
25 notice. Unless otherwise provided, notice may be delivered in person, by certified

1 mail with return receipt requested, or by facsimile transmission. Notice is  
2 considered to be given by proof of personal delivery or by proof that the notice was  
3 mailed to the last-known address of the recipient or was sent by facsimile  
4 transmission to the last-known facsimile transmission number of the recipient.  
5 Failure of the petitioner to provide notice to all interested persons shall deprive the  
6 court of jurisdiction unless receipt of notice is waived by the interested person or  
7 under sub. (2) (b) 4.

8 **(1m)** NOTICE OF PETITION FOR RECEIPT AND ACCEPTANCE OF A FOREIGN  
9 GUARDIANSHIP. (a) Notice of a petition for receipt and acceptance of a foreign  
10 guardianship, unless otherwise provided, shall be delivered in person, by certified  
11 mail with return receipt requested, or by facsimile transmission. Notice is  
12 considered to be given by proof of personal delivery or by proof that the notice was  
13 mailed to the last-known address of the recipient or was sent by facsimile  
14 transmission to the last-known facsimile transmission number of the recipient.  
15 Notice shall be served by the petitioner on all of the following:

16 1. The foreign ward. The notice under this subdivision shall be delivered  
17 personally, shall be in plain language and large type, and shall include all of the  
18 following:

19 a. A statement that the foreign ward has the right to a hearing on the petition  
20 under s. 54.44 and that any request for a hearing must be made within 30 days after  
21 the date that the petition is delivered in person.

22 b. A description of the procedures by which the foreign ward may exercise his  
23 or her right to a hearing.

24 c. A description of the consequences to the foreign ward of a transfer of the  
25 foreign guardianship from the foreign jurisdiction to this state.

1           2. The foreign court from which the foreign guardianship is sought to be  
2 transferred. Notice under this subdivision shall include a request that the foreign  
3 court provide all of the following:

4           a. Certification that the foreign court has no knowledge that the foreign  
5 guardian has engaged in any acts specified in s. 54.68 (2) (a) to (i), failed to perform  
6 any duties of a guardian required by the foreign jurisdiction or the foreign court, or  
7 performed any acts prohibited to a guardian by the foreign jurisdiction or the foreign  
8 court.

9           b. Copies of all documents filed with the foreign court that are relevant to the  
10 foreign guardianship, including the initial petition for the foreign guardianship and  
11 other filed documents relevant to the appointment of the guardian; any reports and  
12 recommendations of any guardian ad litem or other individual appointed by the  
13 foreign court to evaluate the appropriateness of the foreign guardianship; any  
14 reports of health care or mental health care practitioners that describe the capacity  
15 of the foreign ward to care for himself or herself or to manage his or her affairs; any  
16 periodic status reports on the condition of the foreign ward and his or her assets; and  
17 any order to transfer the foreign guardianship.

18           3. All interested persons other than the foreign ward, including any foreign  
19 legal counsel appointed or retained for the foreign ward and any foreign guardian ad  
20 litem appointed for the foreign ward. Notice under this subdivision shall include a  
21 statement that informs persons receiving notice of the right to object to the receipt  
22 and acceptance of the foreign guardianship and that any request for a hearing must  
23 be made within 30 days after the date that the petition is delivered in person, mailed,  
24 or sent by facsimile transmission.

1 (b) Any of the following shall deprive the court of jurisdiction to hear the  
2 petition for receipt and acceptance of the foreign guardianship:

3 1. Failure by the petitioner to serve notice as specified in par. (a) 1., 2., or 3.

4 2. Failure by the foreign court to provide the certifications and copies within  
5 30 days after receipt of the notice specified in par. (a) 2. or to give indication of  
6 compliance within a reasonable period of time.

7 **(2)** (b) Personally or by mail at least 10 days before the time set for hearing,  
8 to all of the following:

9 1. The proposed ward's counsel, if any.

10 2. The proposed ward's guardian ad litem.

11 3. Any presumptive adult heirs, as specified in s. 851.09, of the proposed ward.

12 4. Any other interested persons, unless specifically waived by the court.

13 5. The agent under any durable power of attorney or power of attorney for  
14 health care of the ward.

15 6. Any person who has legal or physical custody of the proposed ward.

16 7. Any public or private agency, charity, or foundation from which the proposed  
17 ward is receiving aid or assistance.

18 8. The proposed guardian for the proposed ward.

19 9. Any other person that the court requires.

20 54.40 **(4)** (c) Interview the proposed guardian, the proposed standby guardian,  
21 if any, and any other person seeking appointment as guardian and report to the court  
22 concerning the suitability of each individual interviewed to serve as guardian and  
23 concerning the report under s. 54.15 (8).

24 (d) 1. Review any power of attorney for health care under ch. 155, any durable  
25 power of attorney under ch. 243 executed by the proposed ward, and any other

1 advance planning for financial and health care decision making in which the  
2 proposed ward had engaged.

3 2. Interview any agent appointed by the proposed ward under any document  
4 specified in subd. 1.

5 3. Report to the court concerning whether or not the proposed ward's advance  
6 planning is adequate to preclude the need for guardianship.

7 (g) If the proposed ward or ward requests representation by counsel, inform the  
8 court and the petitioner or the petitioner's counsel, if any.

9 (h) Attend all court proceedings related to the guardianship.

10 **54.42 Rights of proposed ward or ward. (1) RIGHT TO COUNSEL. (a) 1. The**  
11 **proposed ward or ward requests counsel.**

12 2. The guardian ad litem or another person states to the court that the proposed  
13 ward or ward is opposed to the guardianship petition.

14 3. The court determines that the interests of justice require counsel for the  
15 proposed ward or ward.

16 (b) Any attorney obtained under par. (a) or appointed under par. (c) shall be an  
17 advocate for the expressed wishes of the proposed ward or ward.

18 **(2) RIGHT TO JURY TRIAL.** The proposed ward or ward has the right to a trial by  
19 a jury if demanded by the proposed ward or ward, his or her attorney, or the guardian  
20 ad litem, except that the right is waived unless demanded at least 48 hours before  
21 the time set for the hearing. The number of jurors for such a trial is determined under  
22 s. 756.06 (2) (b). The proposed ward or ward, his or her attorney, or the guardian ad  
23 litem each has the right to present and cross-examine witnesses, including any  
24 physician or licensed psychologist who reports to the court concerning the proposed  
25 ward.

1           **(3) RIGHT TO INDEPENDENT EXAMINATION.**

2           **(5) RIGHT TO BE PRESENT AT HEARING.** The proposed ward or ward has the right  
3 to be present at any hearing regarding the guardianship.

4           **(6) RIGHT TO HEARING IN ACCESSIBLE LOCATION.** The proposed ward or ward has  
5 the right to have any hearing regarding the guardianship conducted in a location and  
6 manner that is accessible to the proposed ward or ward.

7           **54.44 Hearing. (1) TIME OF HEARING; PROVISION OF REPORTS.** (a) *Time of hearing*  
8 *for petition.* A petition for guardianship, other than a petition under par. (b) or (c)  
9 or s. 54.50 (1), shall be heard within 90 days after it is filed. The guardian ad litem  
10 and attorney for the proposed ward shall be provided with a copy of the report of the  
11 examining physician or psychologist under s. 54.36 (1) at least 96 hours before the  
12 time of the hearing.

13           (c) *Time of hearing for petition for receipt and acceptance of a foreign*  
14 *guardianship.* 1. If a motion for a hearing on a petition for receipt and acceptance  
15 of a foreign guardianship is made by the foreign ward, by a person who has received  
16 notice under s. 54.38 (1m) (a) 3., or on the court's own motion, a hearing on the  
17 petition shall be heard within 90 days after the petition is filed.

18           2. If a petition for receipt and acceptance of a foreign guardianship includes a  
19 request to modify the provisions of the foreign guardianship, the petition shall be  
20 heard within 90 days after it is filed.

21           3. If a person receiving notice of the petition for receipt and acceptance of the  
22 foreign guardianship challenges the validity of the foreign guardianship or the  
23 authority of the foreign court to appoint the foreign guardian, the court may stay the  
24 proceeding under this subsection to afford the opportunity to the interested person  
25 to have the foreign court hear the challenge and determine its merits.

1           (2) STANDARD OF PROOF. Any determination by the court as to whether the  
2 proposed ward a minor, is incompetent, or a spendthrift shall be by clear and  
3 convincing evidence.

4           (3) PRESENCE OF PROPOSED GUARDIAN OR PETITIONER. (a) The proposed guardian  
5 and any proposed standby guardian shall be physically present at the hearing unless  
6 the court excuses the attendance of either or, for good cause shown, permits  
7 attendance by telephone.

8           (b) The petitioner, for a petition for receipt and acceptance of a foreign  
9 guardianship, shall be physically present at the hearing specified under sub. (1) (c)  
10 unless the court excuses the petitioner's attendance or, for good cause shown, permits  
11 attendance by telephone.

12           (4) PRESENCE OF PROPOSED WARD. (a) *Adult proposed ward.* The petitioner shall  
13 ensure that the proposed ward attends the hearing unless the attendance is waived  
14 by the guardian ad litem. In determining whether to waive attendance by the  
15 proposed ward, the guardian ad litem shall consider the ability of the proposed ward  
16 to understand and meaningfully participate, the effect of the proposed ward's  
17 attendance on his or her physical or psychological health in relation to the  
18 importance of the proceeding, and the proposed ward's expressed desires. If the  
19 proposed ward is unable to attend the hearing because of residency in a nursing  
20 home or other facility, physical inaccessibility, or a lack of transportation and if the  
21 proposed ward, guardian ad litem, advocate counsel, or other interested person so  
22 requests, the court shall hold the hearing in a place where the proposed ward may  
23 attend.

24           (b) *Minor proposed ward.* A minor is not required to attend the hearing.

1           (c) *Foreign ward.* The petitioner for a petition for receipt and acceptance of a  
2           foreign guardianship shall ensure that the foreign ward attends the hearing unless  
3           the attendance is waived by the guardian ad litem. In determining whether to waive  
4           attendance by the foreign ward, the guardian ad litem shall consider the ability of  
5           the foreign ward to understand and meaningfully participate, the effect of the foreign  
6           ward's attendance on his or her physical or psychological health in relation to the  
7           importance of the proceeding, and the foreign ward's expressed desires. If the foreign  
8           ward is unable to attend the hearing because of residency in a nursing home or other  
9           facility, physical inaccessibility, or a lack of transportation and if the foreign ward,  
10          guardian ad litem, advocate counsel, or other interested person so requests, the court  
11          shall hold the hearing in a place where the foreign ward may attend.

12          **(6) PROPOSED GUARDIAN UNSUITABLE.** If the court finds that the proposed  
13          guardian is unsuitable, the court shall request that a petition proposing a suitable  
14          guardian be filed, shall set a date for a hearing to be held within 30 days, and shall  
15          require the guardian ad litem to investigate the suitability of a new proposed  
16          guardian.

17          **54.46 Disposition of petition.** After the hearing under s. 54.44, the court  
18          shall dispose of the case in one of the following ways:

19          **(1) DISMISSAL OF THE PETITION FOR GUARDIANSHIP.** (a) If the court finds any of  
20          the following, the court shall dismiss the petition:

21               1. Contrary to the allegations of the petition, the proposed ward is not any of  
22               the following:

23                   a. Incompetent.

24                   b. A spendthrift.

25                   c. A minor.

1           2. Advance planning by the ward, as specified in s. 54.10 (3) (c) 3., renders  
2           guardianship unnecessary.

3           3. The elements of the petition are unproven.

4           (b) The court may also consider an application by the proposed ward for the  
5           appointment of a conservator under s. 54.76.

6           **(1m)** DISMISSAL OF THE PETITION FOR RECEIPT AND ACCEPTANCE OF A FOREIGN  
7           GUARDIANSHIP. If the court finds any of the following, the court shall dismiss the  
8           petition:

9           (a) The foreign guardian is not presently in good standing with the foreign  
10          court.

11          (b) The foreign guardian is moving or has moved the foreign ward or the  
12          property of the foreign ward from the foreign jurisdiction in order to avoid or  
13          circumvent the provisions of the foreign guardianship order.

14          (c) The transfer of the foreign guardianship from the foreign jurisdiction is not  
15          in the best interests of the foreign ward.

16          **(1r)** RECEIPT AND ACCEPTANCE OF A FOREIGN GUARDIANSHIP. (a) The court shall  
17          grant a petition for receipt and acceptance of a foreign guardianship if the court finds  
18          all of the following:

19          1. That the foreign guardian is presently in good standing with the foreign  
20          court.

21          2. That the foreign guardian is not moving or has not moved the foreign ward  
22          or the property of the foreign ward from the foreign jurisdiction in order to avoid or  
23          circumvent the provisions of the foreign guardianship order.

24          3. That the transfer of the foreign guardianship from the foreign jurisdiction  
25          is in the best interests of the foreign ward.

1           (b) In granting a petition under par. (a), the court shall give full faith and credit  
2           to the provisions of the foreign guardianship order concerning the determination of  
3           the foreign ward's incapacity. However, the court may modify the provisions of the  
4           foreign guardianship order with respect to all of the following:

- 5           1. Surety bond requirements.
- 6           2. The appointment of a guardian ad litem.
- 7           3. Periodic reporting requirements.
- 8           4. Any other provisions necessary to conform the foreign guardianship order  
9           to the requirements of this chapter and other requirements of this state.

10          (c) The court may require the foreign guardian to file an inventory of the foreign  
11          ward's property at the time of the transfer from the foreign jurisdiction.

12          (d) If granting the petition for receipt and acceptance of the foreign  
13          guardianship, the court shall coordinate with the foreign court the orderly transfer  
14          of the foreign guardianship and, in doing so, the court may do all of the following:

15               1. Delay the effective date of the receipt and acceptance of the foreign  
16               guardianship.

17               2. Make the receipt and acceptance of the foreign guardianship contingent  
18               upon the release or termination of the foreign guardianship and discharge of the  
19               foreign guardian under the foreign jurisdiction.

20               3. Recognize concurrent jurisdiction over the guardianship for a reasonable  
21               period of time to permit the foreign court to release or terminate the foreign  
22               guardianship and discharge the foreign guardian.

23               4. Make other arrangements that the court determines are necessary to  
24               effectuate the receipt and acceptance of the foreign guardianship.

1           **(2) APPOINTMENT OF GUARDIAN; ORDER.** If the proposed ward is found to be  
2 incompetent, a minor, or a spendthrift, the court may enter a determination and  
3 order appointing a guardian that specifies any powers of the guardian that require  
4 court approval, as provided in ss. 54.20 (2) and 54.25 (2), and may provide for any of  
5 the following:

6           (a) *Coguardians.* If the court appoints coguardians of the person or  
7 coguardians of the estate under s. 54.10 (5), and unless otherwise ordered by the  
8 court, each decision made by a coguardian with respect to the ward must be  
9 concurred in by any other coguardian, or the decision is void.

10           (c) *Durable power of attorney.* If the ward has executed a durable power of  
11 attorney before a finding of incompetency and appointment of a guardian is made for  
12 the ward under this chapter, the durable power of attorney remains in effect, except  
13 that the court may, only for good cause shown, revoke the durable power of attorney  
14 or limit the authority of the agent under the terms of the durable power of attorney.  
15 Unless the court makes this revocation or limitation, the ward's guardian may not  
16 make decisions for the ward that may be made by the agent, unless the guardian is  
17 the agent.

18           **(3) (c) Fees if guardian is not appointed.** If a guardian is not appointed under  
19 sub. (2), the petitioner is liable for any fees due the guardian ad litem and the  
20 proposed ward's legal counsel.

21           **54.50 Temporary guardianships. (1) STANDARD.** If it is demonstrated to the  
22 court that a proposed ward's particular situation, including the needs of the proposed  
23 ward's dependents, requires the immediate appointment of a temporary guardian of  
24 the person or estate, the court may appoint a temporary guardian under this section.

1           **(3) PROCEDURES FOR APPOINTMENT.** All of the following procedures apply to the  
2 appointment of a temporary guardian:

3           (a) Any person may petition for the appointment of a temporary guardian for  
4 an individual. The petition shall contain the information required under s. 54.34 (1),  
5 shall specify reasons for the appointment of a temporary guardian and the powers  
6 requested for the temporary guardian, including the power specified in s. 51.30 (5)  
7 (e), and shall include a petition for appointment of a guardian of the person or estate  
8 or state why such a guardianship is not sought.

9           (b) The court shall appoint a guardian ad litem, who shall attempt to meet with  
10 the proposed ward before the hearing or as soon as is practicable after the hearing,  
11 but not later than 7 calendar days after the hearing. The guardian ad litem shall  
12 report to the court on the advisability of the temporary guardianship at the hearing  
13 or not later than 10 calendar days after the hearing.

14           (c) The court shall hold a hearing on the temporary guardianship. The hearing  
15 may be held no earlier than 48 hours after the filing of the petition unless good cause  
16 is shown. At the hearing, the petitioner shall provide a report or testimony from a  
17 physician or psychologist that indicates that there is a reasonable likelihood that the  
18 proposed ward is incompetent. The guardian ad litem shall attend the hearing in  
19 person or by telephone or, instead, shall provide to the court a written report  
20 concerning the proposed ward for review at the hearing.

21           (d) If the court appoints a temporary guardian and if the ward, his or her  
22 counsel, the guardian ad litem, or an interested party requests, the court shall order  
23 a rehearing on the issue of appointment of the temporary guardian within 10  
24 calendar days after the request. If a rehearing is requested, the temporary guardian

1 may take no action to expend the ward's assets, pending a rehearing, without  
2 approval by the court.

### 3 SUBCHAPTER V

#### 4 POST-APPOINTMENT MATTERS

5 54.60 (2) CONTENTS OF INVENTORY. The inventory shall provide all of the  
6 following information with respect to each asset:

7 (a) How the asset is held or titled.

8 (b) The name and relationship to the ward of any co-owner.

9 (c) The marital property classification of the property and, for any property that  
10 is marital property, the spouse who has management and control rights with respect  
11 to the property.

12 (3) TIME FOR FILING. The guardian of the estate shall file the initial inventory  
13 within 60 days after appointment, unless the court extends or reduces the time.

14 (4) NOTICE OF INVENTORY. The court shall specify the persons to whom the  
15 guardian of the estate shall provide copies of the inventory.

16 (5) FEE. The guardian of the estate shall pay from the ward's income and assets  
17 the fee specified in s. 814.66 (1) (b) 2. at the time the inventory or other documents  
18 concerning the value of the income and assets are filed.

19 (6) APPRAISAL. The court may order that the guardian of the estate appraise  
20 all or any part of the ward's assets.

#### 21 54.62 Accounts.

22 (3) SMALL ESTATES. (a) If a ward's income and assets do not exceed the amount  
23 specified in s. 867.03 (1g) (intro.), the guardian need not file an account under sub.  
24 (1) unless otherwise ordered to do so by the court. For the purposes of this paragraph,  
25 the value of the ward's income and assets does not include the ward's income, any

1 burial trust possessed by the ward, or any term or other life insurance policy that is  
2 irrevocably assigned to pay for the disposition of the ward's remains at death.

3 (b) If the ward's income and assets, as calculated under par. (a), increase above  
4 the amount specified in s. 867.03 (1g) (intro.), the guardian shall so notify the court,  
5 which shall determine if an annual account under sub. (1) or a final account under  
6 s. 54.66 is required.

7 **(4) ANNUAL ACCOUNTS OF MARRIED WARDS.** (a) For a married ward, the court may  
8 waive filing of an annual account under sub. (1) or permit the filing of a modified  
9 annual account, which shall be signed by the ward's guardian and spouse and shall  
10 consist of all of the following:

11 1. Total assets of the ward, as determined under ch. 766, on January 1 of the  
12 year in question.

13 2. Income in the name of the ward, without regard to ch. 766, and the ward's  
14 joint income.

15 3. Expenses incurred on behalf of the ward, including the ward's proportionate  
16 share of household expenses if the ward and the ward's spouse reside in the same  
17 household, without regard to ch. 766.

18 4. Total marital property of the ward, as determined under ch. 766, on  
19 December 31 of the year in question.

20 (b) The court shall provide notice of the waiver under par. (a) to any adult child  
21 of the ward.

22 **(7) (a)** The ward.

23 (b) Any guardian ad litem appointed by the court.

24 (c) Any personal representative or special administrator appointed by the  
25 court.